

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 19236 of 2004

Between:

- 1 S. R. Marine Services, rep by Managing Partner Dr. B. Rama Murthy, S/o Sri Ramulu, R/o D.No. 45-7-27, Gudimetlavari Street, Jagannaickpur Kakinada, East Godavari District . (Barge No.KKDB2)
- 2 D. Mohana Rao & Others, rep by Managing Partner, D. Mohana Rao S/o Ramam, R/o D. NO. 46-9-3, Donkavari Street, Jagannaickpur, Kakinada East Godavari District. (Barge No. KKD B47)
- 3 P. Nooka Raju S/o Matayya, R/o D.No. 2-4-24/2, Perrajupet, Kakinada East Godavari District (Barge No. KKD B69)
- 4 Sri Balaji Marines, rep by Managing Partner, J. Vajaya Kumar S/o V. Jagannadhan, R/o D. No. 2-27-7/1, Gokul Street, Kakinada East Godavari District Barge No. KKD B92)
- 5 M/s. Prabhudaya Barge Services, rep by its Managing Partner, P. Satyanarayana S/o Tatayya R/o D. NO. 47-2-8, Yetimoga,Kakindada-2, EAst Godavari District (Barge No. KKD B88)
- 6 M/s. B. Raju and others, rep by Managing Partner B. Raju S/o Suryarao R/o D. NO.60-1-35, Ponamandavari Street, Jagannaickpur, Kakinada, East Godavari Dsitric (Barge No.KKD B43)
- 7 M/s. Usha Marine Transport rep by Managing Partner, P. Krishna Mohan, S/o late China Venkata Ramana, R/o PydahvariSTreet, Pydah Layout 5 Buildings Centre, Kakinada East Godavari District (Barge No. KKD B64)
- 8 P. Mohan Rao S/o Bhairava Swamy, R/o D. NO. 47-3-158, Yetimoga, Kakinada East Godvari Distric (Barge No. KKD B45)
- 9 M/s. Sai Barge Suppliers, rep by Managing Partner, K. Venkateswarlu S/o Suryanarayana Murthy, R/o D. NO. 57-4-27, Natlavari Street, Jagannaickpur, Kakinada East Godavari Dsitric, (Barge No. KKD B57)
- 10 M/s. Mahesh Marine Services, rep by Manging Partner, Ch. Mahesh Babu S/o Ch. Kesava, R/o D. NO. 70-15-7/1, NFCL Road, Kakinada, East Godavari District (Barge No. KKD B63)
- 11 Smt. K. Umadevi W/o K.Venkateswarlu R/o D. NO. 57-4-27 Natlavari Street, Jagannaickpur, Kakinada, East Godavari District (Barge No. KKD B37)
- 12 Smt. K. Varahamma W/o Venakta Ramana

R/o D. O. 58-8-25/1, Chintakayalavari Street, Jagannaickpur, Kakinada East Godavari District (Barge No. KKD B 12)

13 M/s. Sri Parvathi Fleet Carriers rep by Managing Partner P. Seshi Reddy S/o Rami Reddy, R/o D. O. 7-3-83, Prakasam Street, Ramaraopet Kakinada East Godavari District. (Barge No. KKD B6)

14 M/s. Seetarama Barge Suppliers, rep by Managing Partner, N. Pattabhiramana Chowdary, S/o Sreeramamohan Chodary,
R/o D. NO. 2-33-8, Sri Nagar, Kakinada, East Godavari Distri (Barge No. KKDB49)

15 M/s. Veerraju & sons repby Managing Partner, V. Veerabhadra Rao S/o Veeraraju, R/o Yetimoga, Jagannaickpur, Kakinada, East godavari Dsitric Bradge No. KKD B 56)

16 G. Venkata Subbarao S/o Venkateswarlu, R/o Ravindra Nagar Post Office Street, Turangi Kakinada-16, EAsT Godavari District (Brage No KKD B73)

17 Smt. M. Veerabhadramma W/o Late Govindarajulu
R/o D. No. 31-1-10/1, Rangayyanaidu Street, Kakinada-1, East Godavari District (Barge No. KKD B 75)

18 B. Satyanarayana S/o Bhairavaswamy
R/o D. NO. 69-3-4/6, Rajendranagar Kakinada-1, East Godavari District (Barge No. KKD B79)

19 Majeti Rangarao, S/o Late Govinda Rajulu
R/o D. NO. 31-1-10/1, Rangayyanaidu Street, Kakinada-1 East Godavari District (Barge No. KKD B80)

20 S.P. Sharif, S/o Madina Saheb
R/o D. NO. 17-8-53, Road No.5 Revenue Colony, Sambamurthy Nagar, Kakinada, East Godavari District (Barge No.KKD B96)

21 B.S.R. Marine Services, rep by Managing Partner Dr. B. Rama Murthy S/o Sri Ramulu, R/o D.No. 45-7-27, Gudimetlavari SStreet, Jagannaickpur, Kakinada, East Godavari District (Barge No. KKD B1)

22 M/s. K.S. Bose and others, rep by Managing Partner K.S. Bose S/o Sathi Raju,
R/o D. NO. 16-23-45/6B, Pallamraju nagar,Kakinada, East Godavari District (Barge NO. KKD B8)

23 Sri Rama Barge Suppliers rep by Managing Partner A. Rambabu, S/o Adinarayana, R/o Adamvari Street, Jagannaickpur, Kakinada, East Godavari District (Barge NO. KKD B67)

24 G. Rambabu S/o Dharmaraju 44
R/o D. No. 46-1-5, Koppadivari Street, Jagannaickpur, Kakinada, East Godavari District (Barge No. KKD B76)

25 B. Hari and others, rep by Managing Partner B. Hari S/o Suryarao
R/o D.NO. 60-1-35, Ponamandavari Street Jagannaickpur Kakinada, East Godavari District (Barge No. KKD B 52)

26 K. Venkateswarlu S/o Suryanarayana Murthy
R/o D. NO. 57-4-27, Natlavari Street Jagannaickpur, Kakinada East Godavari District (Barge No. KKD B58)

27 M/s. Sambhavi Barge Suppliers rep by Prop: P. Vijayalakshmi W/o Bhaskarrao, R/o H. NO. 4-61/2, Balakrishna Apartments, Sundar Nagar Ramanayyapet Kakinada, East godavari District (Barge NO. KKD B10)

28 Bandana Hari and others, rep by Managing Partner B. Hari S/o Suryarao
R/o D.NO. 60-1-35, Ponamandavari Street Jagannaickpur Kakinada, East Godavari District (Barge No. KKD B 46)

.....PETITIONERS

AND

- 1 Government of Andhra Pradesh, rep by Secretary, Transport and Building (Ports) Department, Secretariat, Hyderabad
- 2 Commissioner of Ports Andhra Pradesh, Kakinada Port, Kakinada, East Godavari District.
- 3 Port Officer, Kakinada Port, Kakinada East Godavari District

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ, order or direction declaring the orders of the 3rd respondent in Ref. NO. PC/R/SB/1158/04 dated 16-9-2004 suspending the licence of our barges as illegal, arbitrary etc., and grant such other just and consequential relief or reliefs.

Counsel for the Petitioners: MR.V.V.L.N.SARMA

Counsel for the Respondents : GP FOR TRANSPORT

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.19236 OF 2004

ORDER:

The petitioners who are twenty eight (28) in number are operating barges in Kakinada Port under licences issued by the port authorities in accordance with A.P.State Port Harbour Crafts Rules, 1980 (hereafter called, the Rules). They assail in this writ petition the proceedings of the third respondent vide Ref.No.PC/R/SB/1158/04 dated 16.09.2004, whereby and whereunder the licences issued to the petitioners were suspended allegedly for violation of the Rules. This Court while admitting the writ petition on 14.10.2004 by orders of even date made in W.P.M.P.No.25206 of 2004 suspended the impugned order on the condition that the petitioners shall not object the regular flow of the navigation from the anchorage port to the deep water port. It was also made clear that the interim orders shall not be applicable if the petitioners cause any obstruction for free flow of the navigation. The matter is again listed before this Court for further enquiry. With the consent of the learned counsel for the petitioners and the Learned Government Pleader for Ports, the matter was heard finally.

It is submitted *inter alia* by the learned counsel for the petitioners that the impugned order is passed without any power or authority and jurisdiction and that the same is violative of principles of natural justice for want of pre-decisional notice to the petitioners. These allegations are refuted by the Learned Government Pleader, who contends that subsequently show cause notice was issued and explanation submitted by the petitioners are also received.

A reading of the impugned order would show that M/s.Kakinada Sea Ports Limited gave a complaint to the port officer, the third respondent herein – that the petitioners blocked the navigational channel of the Deep Water Port affecting the movement of vessels to and fro from the Deep Water Port berths. If the same is correct, it is a very serious matter disentitling the petitioners to operate their barges for blocking of navigational channel would seriously hamper the movement of vessels and detrimental to the trade. However, when once the petitioners were given valid licences under the Rules, they had a right to operate the barges in accordance with the conditions of licence. The licences can be suspended or terminated only after following the principles of natural justice because any such action without notice would result in civil consequences of depriving the petitioners of their legitimate right to operate barges. This essential condition, namely, post-decisional notice to the petitioners was not issued prior to his passing the impugned order. However, it is not denied that subsequently a show cause notice was issued and the petitioners already submitted explanation.

Whether the petitioners blocked the movement of vessels by blocking the Deep Sea Channel and whether the authorities could have suspended the licences merely on the report of M/s.Kakinada Sea Ports Limited are all matters which have to be gone into by the competent licensing authorities. As the petitioners submitted their explanations, it would not be proper for this Court to express any opinion on this aspect. It would be in the interest of justice if the port officer passes an order immediately within a period of one week from the date of receipt of this order after considering the explanations submitted by the petitioners. Pending such order, which would be subject to further appeal, if any, under the Rules, the petitioners shall be permitted to operate the barges subject to the conditions imposed by this Court while passing interim orders referred to hereinabove.

The writ petition is accordingly disposed of with the observations and directions as above.

(V.V.S.RAO,J)

06.06.2005.

pln

Note: Office to issue certified copy by 08.06.2005.

By order

Pln

To

1. The Secretary, Government of Andhra Pradesh, Transport and Building (Ports) Department, Secretariat, Hyderabad.

2 Commissioner of Ports, Andhra Pradesh, Kakinada Port, Kakinada, East Godavari District.

3 Port Officer, Kakinada Port, Kakinada East Godavari District.

4 2 CCs to the Government Pleader for Transport, High Court Buildings, Hyderabad.

5 2 CD copies.

